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REPORT OF THE INTERNATIONAL TRIBUNAL FOR THE PROSECUTION OF PERSONS RESPONSIBLE FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW COMMITTED IN THE TERRITORY OF THE FORMER YUGOSLAVIA SINCE 1991

SECURITY COUNCIL
Forty-ninth year

Letter dated 28 December 1994 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith copies of the following documents:

(a) Law on Compilation and Dissemination of Data concerning Crimes Committed against Humanity and in Violation of International Law, adopted by the Assembly of the Federal Republic of Yugoslavia on 24 July 1993 (annex I);

(b) Decree Establishing the Committee to Compile Data on Crimes against Humanity and in Violation of International Law, adopted by the Federal Government on 27 May 1993 (annex II);

(c) Letter from the Deputy Prime Minister and the Federal Minister of Justice, Mr. Uroš Klikovac, of 20 December 1994, addressed to Justice Richard Goldstone, Prosecutor, concerning the cooperation between the Government of the Federal Republic of Yugoslavia and the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (annex III).

I should be grateful if you would have the present letter and its annexes circulated as an official document of the General Assembly, under the item entitled "Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed

in the Territory of the Former Yugoslavia since 1991", and of the Security Council.

(Signed) Dragomir DJOKIĆ
Ambassador
Chargé d'affaires a.i.

ANNEX I

## Law on Compilation and Dissemination of Data concerning Crimes Committed against Humanity and in Violation of International Law

### Article 1

Those who compile data and things or dispose with the data and things that could evidence crimes against humanity and international law, stipulated in Chapter XVI of the Criminal Code of the Federal Republic of Yugoslavia as of 1990, shall be obliged to make these data and things available, namely, submit them to the Committee to Compile Data on Crimes against Humanity and in Violation of International Law (hereinafter referred to as "the Committee").

### Article 2

A person knowledgeable of a crime referred to in Article 1 of the present Law may make a statement to that effect to the Committee.

### Article 3

As soon as the data and things referred to in Article 1 of the present Law are compiled by a competent federal organ, state organ cooperating with the competent federal organ or the person authorized by the Committee they shall be obliged to enter the data on persons, things and events into a special form.

The form mentioned in paragraph 1 of the present Article shall be prescribed by the Committee.

### Article 4

Judicial authorities and other state organs shall be obliged to offer legal assistance to the Committee.

### Article 5

Data and things referred to in Article 3 of the present Law shall be accessible to all under equal terms, except data established to constitute state, military, official or business secrets.

Article 6

The Committee may entrust the data and things compiled to a scientific or professional institution for processing, findings or opinion.

The Committee shall determine whether the data, findings and opinion referred to above shall be published.

Article 7

The Committee shall be obliged to preserve in secrecy the identity of a person who acted in conformity with Articles 1 and 2 of the present Law, if he so wishes.

Article 8

If anyone refuses to make available or submit the data referred to in Article 1 of the present Law, the Committee may demand their temporary requisition by the competent court.

Article 9

Persons who would make available or submit the data or make a statement in conformity with the provisions of the present law shall be entitled to a compensation for damage and necessary expenses, which shall be determined by the Committee if so requested by the person.

Article 10

Those who shall refuse to make available or submit the data and things referred to in Article 1 of the present Law or who shall prevent submission, namely, availability for inspection, of such data and things shall be punished for a criminal act by a fine or prison up to one year.

If the act referred to in paragraph 1 of the present Article shall be committed by an officer or a responsible person, he or she shall be punished for a criminal act by a prison sentence of from three months to three years.

Article 11

On the date of entry of the present Law into force, the Decision establishing the State Commission compiling the data conducive to the determination of the crime of genocide and other crimes against humanity and international law committed against the population of Serb and other nationalities at the time of armed conflicts in Croatia and other parts of the country (Official Gazette of SFRY No. 18/92) shall be null and void.

Article 12

Documents available to the State Commission referred to in Article 11 of the present Law shall be transferred to the Committee within eight days as of the date of entry into force of the present Law.

Article 13

The present Law shall enter into force on the eighth day from the date of its publication in the Official Gazette of the Federal Republic of Yugoslavia.

ANNEX II

Decree establishing the Committee to Compile Data on Crimes against Humanity and in Violation of International Law

1. Basic provisions

Article 1

With a view to compiling data and doing things conducive to evidencing crimes against humanity and in violation of international law as stipulated in Chapter XVI of the Criminal Code of the Federal Republic of Yugoslavia, committed in parts of the territories of former Yugoslavia as of 1990, a Committee is formed to compile data on crimes against humanity and in violation of international law (hereinafter referred to as "the Committee"), as a separate federal organ.

The Committee shall be autonomous in its work.

Article 2

The Committee shall be composed of nine members.

The Committee Chairman, Deputy Chairman and members shall be appointed by the Federal Government.

Article 3

The seat of the Committee shall be in Belgrade.

2. Scope

Article 4

The Committee shall have the following scope of work:

1. Arrangements for and compilation of data concerning:

(1) Murders, heavy body injuries, harm to physical and mental health of civilians;

(2) Forced displacement and resettlement of population;

(3) Attacks against the civilian population;

(4) Hostage taking and collective punishment;

(5) Illegal detentions and placements of civilians into concentration camps;

(6) Deprivation of the right to due and fair trial;

(7) Imposition of forced labour;

(8) Confiscation of civilian property;

(9) Damage or destruction of civilian property not caused by military needs;

(10) Attacks against facilities specially protected under international law;

(11) Murders, torture and inhuman treatment of the wounded, the sick, medical personnel and religious personnel;

(12) Murders, torture and inhuman treatment of detainees and prisoners of war;

(13) Illicit taking away of belongings of the wounded and killed;

(14) Use of non-permissible combat means;

(15) Inhuman treatment of the wounded, the sick, detainees and prisoners of war, including preventing them to avail themselves of the rights to which they are entitled under the rules of international law;

(16) Damage, destruction and robbery of culture and historic monuments, or public or humanitarian facilities;

(17) Abuses of international law;

(18) Violations of fundamental human rights and freedoms recognized by the international community, based on discrimination on religious and ethnic grounds;

(19) Other forms and consequences of crimes committed against humanity and in violation of international law;

(20) Perpetrators, those who directed them and organized the commission of crimes against humanity and international law;

(21) Criminal proceedings that were conducted or are under way for crimes against humanity and in violation of international law.

2. The Committee shall have the compiled data and evidencing materials organized in a professional way with a view to:

(1) Submission to the competent state authorities for prosecution of perpetrators of criminal activities against humanity and in violation of international law;

(2) Inclusion in corresponding background papers, statements and reports;

(3) Advising the Federal Government and other state organs of their performance;

(4) Cooperating with corresponding United Nations bodies, international, government and non-governmental organizations and similar bodies formed in the territory of the former Socialist Federal Republic of Yugoslavia;

(5) Informing domestic and international public of its work.

Apart from the tasks enumerated in paragraph 1 of the present Article, the Committee shall be involved in other business relevant to the accomplishment of the goals it has been established to pursue.

## 3. Set-up and methodology

### Article 5

The Committee shall proceed in compiling data directly, by recruiting the necessary staff or by assigning the job to a scientific research institution.

In pursuance of the tasks referred to in Article 4 of the present Decree, the Committee shall cooperate with the competent military and civilian authorities, organizations and individuals.

### Article 6

If the Committee would be unable to establish contact with corresponding bodies outside the Federal Republic of Yugoslavia in determining certain facts or obtaining certain evidence, or if any fact or evidence proves to be disputable, the Committee may request the Federal Government to move a procedure for the establishment of such facts or evidence by a separate commission of the United Nations in conformity with the Declaration on the determination of facts in the sphere of preservation of international peace and security.

### Article 7

The Chairman of the Committee may decide to invite representatives of State organs and scientific and professional institutions, as well as distinguished experts in the country or from abroad who may take part in the Committee's deliberations.

The sessions of the Committee may be attended by representatives of corresponding United Nations bodies and international government and non-governmental organizations as well as of the parallel bodies formed in the territory of the former Socialist Federal Republic of Yugoslavia.

Article 8

The Committee shall decide by majority vote on the total Committee membership.

Article 9

The Committee shall adopt its Rules of Procedure.

Article 10

The Chairman of the Committee shall guide its work.

The Chairman shall convene and preside over the sessions of the Committee.

The Chairman of the Committee shall be obliged to convene sessions of the Committee at the request of the Prime Minister or on the proposal of three of the Committee members, at least.

Article 11

The Chairman of the Committee shall look after the implementation of the decisions of the Committee, shall inform domestic and world public of the Committee's work and perform other tasks according to the Rules of Procedure.

Article 12

The Chairman of the Committee, his Deputy and members of the Committee may hold permanent employment.

Members of the Committee without permanent employment status will have remuneration for their engagement in the amount to be fixed by the Federal Government, on the proposal of the Committee Chairman.

Article 13

The Committee may form its ad hoc bodies to study individual issues or perform other tasks within the competence of the Committee.

Article 14

Administrative affairs for the Committee shall be performed by the Committee staff, to be recruited by the Federal Government on the proposal of the Committee.

4. Transitory and final provisions

Article 15

The Committee shall, within 15 days from its appointment, submit the by-law establishing its staff, referred to in Article 14 of the present Decree, and adopt Rules of Procedure.

Article 16

The present Decree shall take effect on the eighth day after the day of its publication in the "Official Gazette of the Federal Republic of Yugoslavia".

Federal Government

27 May 1993

Prime Minister
(Signed) Dr. Radoje KONTIC

ANNEX III

Letter dated 20 December 1994 from the Deputy Prime Minister and Federal Minister of Justice of Yugoslavia addressed to the Prosecutor of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

In connection with your letter of 14 October, the Federal Government of FR Yugoslavia, proceeding from its positions on the International Criminal Tribunal for the criminal prosecution of persons responsible for serious violations of international humanitarian law in the territory of the former Yugoslavia - which I expounded to you during our talks in Belgrade and of which Mr. Boutros Boutros-Ghali, the United Nations Secretary-General, has also been informed on two occasions - again discussed all pertinent questions related to the possible modalities of cooperation with the International Tribunal and/or the Prosecutor of the Tribunal and adopted the following stances:

(a) In accordance with valid positive Yugoslav legislation, the competent organs of FR Yugoslavia will make possible such cooperation with the International Criminal Tribunal, and/or the Prosecutor of the Tribunal, as will contribute to the criminal prosecution of perpetrators of criminal acts against humanity and international law contained in chapter XVI of the Criminal Code of FR Yugoslavia;

(b) To that end the competent organs of FR Yugoslavia will make adequate provision for the submission of appropriate documentation related to the commission of criminal acts against humanity and international law in cases where this is of bearing on the criminal prosecution of perpetrators of the mentioned criminal acts, on condition that no possibilities exist for their criminal prosecution before national courts;

(c) In cases when the International Criminal Tribunal and/or the Prosecutor of the Tribunal addresses a letter rogatory for legal assistance, their representatives may be present in the course of investigations which will be undertaken by domestic courts on the basis of regulations in force and may ask questions and seek explanations through the investigating judge;

(d) Representatives of the International Criminal Tribunal and/or the Prosecutor of the Tribunal may also attend trials before domestic courts for criminal acts in which they are interested, with prior notification to the court before which the criminal trial in question is being conducted, unless the public has been barred from the trial in conformity with the relevant provisions of the Law on Criminal Procedure;

(e) The competent judiciary bodies of FR Yugoslavia will examine all evidential material, including that possibly submitted by the International Criminal Tribunal and/or the Prosecutor of the Tribunal, which may serve for the criminal prosecution of perpetrators of criminal acts against humanity and international law who are in the territory of FR Yugoslavia and, if legal

conditions therefor exist, institute criminal proceedings against the perpetrators of such acts before the competent courts in FR Yugoslavia;

(f) As regards your request for liaison officers to be appointed in Belgrade and appropriate working conditions to be ensured for them, the Federal Government is prepared to make it possible for one representative of the International Criminal Tribunal, and/or the Prosecutor of the Tribunal to be present within the framework of the United Nations Protection Force in Belgrade, without having the right to specifically display the title of the International Criminal Tribunal and/or the Prosecutor of the Tribunal. This representative would be enabled contacts with the responsible federal and republican bodies and non-governmental organizations, on the understanding that he would be in no position to undertake investigative action vis-à-vis domestic physical persons. The representative of the International Criminal Tribunal and/or the Prosecutor of the Tribunal would enjoy the privileges and immunities applicable to United Nations staff;

(g) The arrangement described in the previous paragraph is based, inter alia, on the fact that there was no war in the territory of FR Yugoslavia and hence no commission of any of the mentioned criminal acts, wherefor the work of the International Criminal Tribunal and/or the Prosecutor of the Tribunal should focus on those territories where war operations took place and where the largest number of perpetrators of criminal acts against humanity and international law, their victims and proof can be found.

In the letter which you sent me on 28 November, you showed an interest in the trial of Duško Vučković, about which as you say you learned from the media. In that connection I can inform you that on the basis of the charges against the indicted Duško Vučković made by the District Public Prosecutor's Office in Šabac, the Republic of Serbia, for the criminal act of war crime against civilians from article 142, paragraph 1, of the Criminal Code of FR Yugoslavia and the criminal act of rape from article 103, paragraph 1, of the Criminal Code of the Republic of Serbia, the main hearing in this case started before the District Court in Šabac on 22 November. It was a public hearing so that it was attended by a large number of domestic and foreign journalists.

May I, in concluding this letter, draw your attention to the observation that the discussion before the International Tribunal on the assumption of jurisdiction in the case of Dušan Tadić as well as the fact that the beginning of the work of the Tribunal involves trials against two persons of Serbian nationality, seriously call in question assurances of the Tribunal's impartiality, which may adversely affect our future cooperation.

Uroš KLIKOVAC

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